Delimitation Commission

2571. SHRI A. VIJAYA RAGHAVAN: Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether Delimitation Commission for constituencies is consulting fully with the associate members of the Commission on the delimitation exercises;

(b) if so, the details thereof;

(c) whether base year for the delimitation exercises is determined by the Competent Authority;

(d) if so, the details thereof;

(e) if not, the reasons for delay, if any; and

(f) whether steps will be taken during the delimitation exercises to protect the interests of the States which have effectively implemented population control measures?

THE MINISTER OF LAW AND JUSTICE (SHRI ARUN JAITLEY): (a) The Delimitation Commission has informed that it consults the Associate Members at various stages during the process of Delimitation relating to their respective States.

(b) The statement of the Delimitation Commission, explaining the constitutional and legal parameters and the guidelines and methodology including the process of consulting the Associate Members, enclosed. (*See* below).

(c) As per section 4 of the Delimitation Act, 2002, the Delimitation Commission shall re-adjust the divison of each State into territorial Constituencies for the purpose of elections to the House of the People and to the State Legislative Assembly on the basis of the census figures as ascertained at the census held in 1991.

(d) Does not arise in view of (c) above.

(e) Does not arise.

(f) Under the provisions of the Constitution (Eighty-fourth Amendment) Act, 2001, the total number of seats in the Legislative Assemblies of each of the States and the number of seats allocated

to the House of the People from each State has been frozen till the year 2026.

Statement

Guidelines and Methodology

For Delimitation of Assembly and Parliamentary Constituencies

Constitutional and Legal Provisions

The Constitution (Eighty-fourth Amendment) Act, 2001 (notified on 21.02.2002) has *inter alia*, amended Articles 81, 82, 170, 330 and 332 of the Constitution of India. The cumulative effect of these amendments to the Constitution is that—

(i) the total number of existing seats as allocated to various States[1] in the House of the People on the basis of 1971 census shall remain unaltered till the first census to be taken after the year 2026;

(ii) the total number of existing seats in the Legislative Assemblies of all States as fixed on the basis of 1971 census shall also remain unaltered till the first census to be taken after the year 2026;

(iii) the number of seats to be reserved for the Scheduled Castes (SCs) and Scheduled Tribes (STs) in the House of the People and State Legislative Assemblies shall be re-worked out on the basis of 1991 census;

(iv) Each States shall be redelimited into territorial parliamentary and assembly constituencies on the basis of 1991 census and the extent of such constituencies and delimited now shall remain frozen till the first census to be taken after the year 2026; and

(v) the constituencies shall be so re-delimited that population (on the basis of 1991 census) of each parliamentary and assembly constituency in a State shall, so far as practicable, be the same throughout the State.

[1]'State' here does not include the State of Jammu and Kashmir, but includes the National Capital Territory of Delhi and Union Territory of Pondicherry.

In pursuance of the aforesaid amendments made to the Constitution by the Constitution (Eighty-fourth Amendment) Act 2001, Parliament has enacted the Delimitation Act, 2002 (notified on 03.02.2002) entrusting the above mentioned tasks at (iii), (iv) and (v) above to the Delimitation Commission to be set up under section 3 of the said Act. The Delimitation Commission so set up has started functioning *w.e.f.* 04.07.2002 under the chairmanship of MKr. Justice Kuldip Singh (former Jduge of the Supreme Court of India) with Shri B.B. Tandon, Election Commissioner of India, and the State Election Commissioner of the State concerned (in respect of the work relating to that State) as *ex-officio* members.

The Commission shall also associate in its work, in respect of each State, five members of Lok Sabha elected from that State (or all such members if their number is less than five) and five members of the State Legislative Assembly. These Associate Members shall be nominated by the Hon'ble Speakers of the Lok Sabha and State Legislative Assemblies concerned. But these Associate Members shall have no voting right.

Division of States into Parliamentary and Assembly Constituencies

The division of each State into assembly and parliamentary constituencies is thus to be made having regard to the total number of existing seats in each State Legislative Assembly and the total number of seats as allocated at present to each State in the House of the People. In other words each State is to be divided into the same number of assembly constituencies as the total number of existing seats in the State Legislative Assembly and the number of parliamentary cosntituencies in the State would be equal to the number of seats presently allotted to that State in the House of the People (*See* First and Second Schedules to the Representation of the People Act 1950).

Further, all constituencies shall, as far as practicable be geographically compact areas and in delimiting them regard shall be had to the physical features, existing boundaries of administrative units, facilities of communication and public convenience.

Population

1. All assembly and parliamentary constituencies are to be delimited on the basis of the 1991 Census. The census figures of 1991 as published by the Census Commissioner are thus alone to be taken into account for this purpose.
2. Each constituency in a State shall be so delimited that the population of all constituencies shall, so far as practicable, be the same throughout the State.
3. For this pupose, the total poulation of the State (1991 Census) shall be divided by the total number of assembly constituencies in the State and the State average per assembly constitutency shall thus be obtained. This State average shall be guiding factor for delimiting the constituencies in such a manner that each constituency, so far as practicable, has an equal population.
4. The Delimitation Commission has, however, taken an internal decision that as constituencies cannot be delimited having exactly equal population in all cases, a deviation to the extent of 10 percent *plus* or *minus* from the State/ District average would be acceptable to the Commission, if the geographical features, means of communication, public convenience, contiguity of the areas and necessity to avoid breaking of administrative units so demand.

Adminstrative Units

Though the population to be taken into account is the population of 1991 Census, the Commission has decided that constituencies shall be delimited having regard to the administrative units, *i.e.*, district/sub-divisions/tehsils/patwari circles, *etc.*, as in existence on **1st August 2002.** The Commission has written to all the State Govts. not to disturb the administrative units, as existing on 01.08.2002, till the completion of the delimitation exercise in the State in all respects.

Methodology for Allocation of Assembly Constituencies to the Districts and Delimitation of Assembly Constituencies

1. The Delimitation Commission has taken decision that, so

far as practicable, all assembly constituencies in a district shall be confined within the territorial limits of that district. In other words, an assembly constituency shall not ordinarily extend to more than one district.

2. Having regard to the above internal decision of the Delimitation Commission, the first step will be to allocate the number of assembly constituencies to each district on the basis of the total population of that district divided by the average population per constituency as worked out under sub-paragraph (3) of the preceding paragraph. Where the entitlement of a district on the basis of such State average contains a fraction, the fractions more than one-half shall be counted as one and fractions less than one-half shall be ignored.

3. As a next step, the average population in each constituency in the district shall be worked out by dividing the total population of the district with the number of seats allocated to that district.

4. Then, the areas of the district shall be divided into the requisite number of assembly constituencies having regard to the average population per constituency in the district with a permissible deviation of 10 percent plus or minus from the district average.

5. In delimiting the assembly constituencies, efforts will be made to ensure that, as far as practicable sub-divisions/ tehsils are kept intact and not unnecessarily broken. Further, in each State, an administrative unit shall need to be identified having regard to the administrative set up of that State which will be adopted as the *lowest administrative unit which should not be broken in any case.* For example, in the State of Madhya Pradesh, the administrative units are districts, tehsils, revenue inspector circles (RICs) and patwari circles (PCs). If a PC (consisting of a few villages) is adopted as the lowest administrative unit for the purpose of delimination, the whole of that PC will be kept intact and included in one assembly constituency and the villages

contained in that PC will not be divided into different assembly constituencies.

6. While delimiting the assembly constituencies on the basis of the administrative units as mentioned above, the contiguity of such administrative units will be the basic requirement, so that no constituency has an enclave/island within it of certain areas belonging to another constituency and having no contiguity to the other areas of that latter constituency.

7. Further, apart from contiguity, geographical features, better connectivity, means of communication, public convenience will also be kept in view and areas divided by rivers or hilly ranges or forests or ravines and other such natural barriers will not be put in the same constituency.

Delimitation of Parliamentary Constituencies

Each parliamentary constituency in a State shall be an integral multiple of the assembly constituencies comprised therein. No assembly constituency shall extend to more than one parliamentary constituency.

Reservation of Seats for SCs and STs

1. Seats have to be reserved for the scheduled castes and scheduled tribes in proportion to their population to the total population of the State.

2. This allocation of seats for the SCs and STs is to be worked out separately both for the assembly and parliamentary constituencies in each State, on the basis of 1991 Census.

3. Under section 9(1)(d) of the Delimitation Act 2002, seats for the STs are to be reserved in the constituencies in which the percentage of their population to the total population is the largest. Therefore, after all the assembly constituencies in the State have been delimited, the constituencies to be reserved for STs will be those where the percentage of the ST population to the total population of the constituencies is the largest, in descending order

equal to the number of constituencies to be reserved for STs.

4. Under section 9(1)(c) of the said Act, the constituencies for SCs are to be **distributed** in different parts of the State and seats are to be reserved for SCs in those constituencies where the percentage of their population to the total population is **comparatively large.** Therefore, while working out the allocation of total number of seats for each district as mentioned above, the number of seats to be reserved for SCs in those districts will also have to be worked out separately. Subsequently, SC seats will be reserved in those constituencies in the district in which, so far as practicable, the percentage of their population to the total population is the largest, in descending order equal to the number of SC seats in the district concerned.

Preparation of Working Paper

A working paper will be prepared by the office of the Delimitation Commission having regard to the above principles and internal decisions of the Delimitation Commission. The working paper will consist of seven papers containing:-

(1) Paper I - District-wise 1991 population data and entitlement of assembly seats for each district.

(2) Paper II - Entitlement of seats for scheduled castes in the assembly and distribution of SC seats among the districts.

(3) Paper III - SC population in the proposed assembly constituencies and seats proposed to be reserved for SCs;

(4) Paper IV - ST population in the proposed assembly constituencies and seats proposed to be reserved for STs;

(5) Paper V - Abstract statement of proposed assembly constituencies and total SC and ST population in each constituency;

(6) Paper VI - District-wise statement showing details of extent, total/SC/ST population in each of the proposed assembly constituencies;

(7) Paper VII - Proposed Lok Sabha constituencies and their extent in terms of proposed assembly constituencies.

Working Paper-Approval by the Commission

Preparation of Working Paper and its approval by Delimitation Commission will be done into two stages. In the first stage, Papers I and II showing the proposed allocation of Assembly seats to various districts in the States and further showing the proposed distribution of seats for Scheduled Castes among the various districts will be prepared by the office. Soon after Papers I and II are prepared by the office, the same will be submitted to the Chairman, Election Commissioner of India and the State Election Commissioner of that State, who are *ex-officio* Members, and a meeting will be held of the full Commission to tentatively approve these Papers I and II. The Commission has now decided* to consult Associate Members by calling their first meeting soon after Papers I and II have been tentatively prepared by the Commission. Normally the Chief Electoral Officer of the State concerned will also be directed to attend such meeting to clarify any point relating to data and maps and any other related matter.

Thereafter, the remaining Papers III to VII showing the proposed territorial extent of Assembly and Parliamentary Constituencies and the constituencies which are proposed to be reserved for Scheduled Castes and Scheduled Tribes will be prepared by the office and approved tentatively by the Commission after taking into consideration suggestions made by the Associate Members at the aforesaid first meeting. After approving the tentative proposals in the complete Working Paper (containing Papers I to VII), the Commission will direct the Secretariat to send copies of the complete Working Paper to the Associate Members who will be given a reasonable time to study the proposals and to come with their suggestions for further meeting(s) in the Commission.

*In deference to the feelings expressed at the meeting of all parties held by Government on 13th March, 2003.

The CEO of the concerned State will provide the Associate Members with copies of required data and maps.

Meeting with Associate Members

As mentioned in the preceding paragraph, the Commission will hold its first meeting with the Associate Members for considering Papers I and II showing the proposed allocation of Assembly seats to various districts in the States and further showing the proposed distribution of seats for Schedule Castes among the various districts. The Commission will then hold further meeting(s) with Associate Members after the remaining papers (Papers III to VII) of the Working Paper showing the proposed territorial extent of Assembly and Parliamentary Constituencies and the constituencies which are proposed to be reserved for Scheduled Castes and Schedule Tribes have been prepared by the Commission after taking into consideration suggestions made by the Associate Members at the aforesaid first meeting. At the second round of meeting(s) of the Commission with the Associate Members (AMs), their suggestions with regard to the Working Paper will be duly considered and the draft proposals of the Commission will then be prepared in the light of the suggestions of the AMs. A copy of the draft proposals so prepared will be sent to each of the AMs and they may give a dissenting note in respect of any of the draft proposals, if they so desire.

Draft Proposals-Notification

The draft proposals of the Commission shall then be published in the Gazette of India and the concerned State's Gazette along with the dissenting notes, if any, submitted by the Associate Members and who desire publication thereof. These shall also be published at least in two vernacular newspapers. The CEO and DEOs and all election authorities will be directed to make copies of the notification containing the draft proposals availabe to all those who may ask for it. Widest publicity will be given through print and electronic media. A notice will also be issued specifying a date on or before which the public is requested to send their objections and suggestions to the proposals.

After the specified date, the suggestions and objections received will be tabulated and made into sets and distributed to all Members of the Commission including Asociate Members.

Public Sittings

After the last date for submiting suggestions and objections is over, the Commission will hold public sittings at one or more places in the State to hear the public in person. Wide publicity will be given to those sittings.

Final Orders

After hearing the public, the Commission will hold a final meeting attended by Associate Members (though they have no right to vote) to consider all suggestions received in writing as well as orally made at the public sittings and decide the modifications that are required to be made to the draft proposals and prepare a final order. The final order thus prepared, both for assembly constituencies and parliamentary constituencies of the State, will be signed by the full Commission and the Secretary to the Delimitation Commission will cause the final orders to be published in the Gazette of India and State Gazette. The final orders are also required to be published in two vernacular news papers in the State concerned. After the final order are published, the President of India shall be requested to issue a notification specifying a date from which the said orders shall come into force. The copies of those orders shall also be laid before the House of the People and the State Legislative Assembly concerned, but no modification shall be permissible therein by them.

Reservation for physically handicapped in lower judicial services

2572. SHRI B.S. GNANADESIKAN: Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether Government have any plan to give reservation for the physically handicapped in the lower judicial services;

(b) if so, the details thereof; and